

REMARKS

Applicants respectfully request reconsideration of this application in view of the foregoing amendment and following remarks.

Objection

DRAWINGS

The Office action indicates that the reference character “1” has been used to designate both a source (Fig. 1) and detector (Fig. 2) and suggest to replace “1” in Fig. 2 to --7--.

Fig. 2 has been amended to replace the reference character “1” with --7--.

CLAIMS

Claims 1-3, 8 and 10 have been objected to because of several informalities.

Each of claims 1-3, 8 and 10 has been amended as shown above addressing the informality issues as indicated in the Office action.

Applicants respectfully request that these objections be withdrawn.

Status of the Claims

Claims 1-10 are pending in this application. Claim 1 is independent. All of the pending claims stand rejected. By this amendment, independent claim 1 are amended. Dependent claims 2-4, 8 and 10 are also amended. New claims 11-16 have been added. No new matter has been added by this amendment.

Rejection under 35 U.S.C. §102

In paragraph three (3) of the Office action, claims 1 and 2 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,160,848 to Saitoh et al. (“Saitoh”).

Saitoh discloses a detecting device for detecting a relative position between two opposed objects. Applicants note that the Saitoh's device includes two sensors 38, 39 receiving diffracted lights from the two grating lenses 4a and 4b aligned in vertical direction as shown in, for example, Fig. 4A.

In paragraph six (6) of the Office action, claims 1 and 7 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Application Publication No. 2002/0033954 to Niu et al. ("Niu").

Niu discloses a method to determine the diffraction of electromagnetic radiation from periodic grating profiles using a set up shown in Fig. 11. Applicants note that Niu discloses in Fig. 11 two detectors 1070a, 1070b receiving lights from the sample 1045.

Independent claim 1 has been amended as shown above for further clarification of the present invention. In particular, amended claim 1 now recites "wheren a result of measurement by said second light detecting means is corrected using a result of measurement by said first detecting means."

Applicants believe that there is nothing in the cited references (i.e., Saitoh and Niu), either taken alone or in combination, that teaches the invention of amended claim 1 as discussed above.

Accordingly, independent claim 1 as amended is neither anticipated by nor rendered obvious in view of the cited references (i.e., Saitoh and Niu) for at least the reasons discussed above.

Reconsideration and withdrawal of the rejections of claim 1 under 35 U.S.C. §102(b) is respectfully requested.

Rejection under 35 U.S.C. §103

In paragraph nine (9) of the Office action, claims 1, 3 and 8 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,578,833 to Ohmi et al. (“Ohmi”) in view of published U.S. Application No. 2002/0075996 to Holler et al. (“Holler”).

The Office action indicates that Ohmi discloses each and every elements of the rejected claims except for the another detecting means, and cites Holler for this lacking element.

As indicated above, independent claim 1 is amended to further recite that “wheren a result of measurement by said second light detecting means is corrected using a result of measurement by said first detecting means.”

Applicants believe that none of cited references (i.e., Ohmi and Holler), either taken alone or in combination, shows or suggests the features of claim 1 as amended.

Accordingly, claim 1 as amended is believed neither anticipated by nor rendered obvious in view of the cited references (i.e., Ohmi and Holler) for at least the reasons discussed above.

Reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. §103(a) is respectfully requested.

Applicants have not individually addressed the rejections of the dependent claims because Applicants submit that the independent claims from which they respectively depend are in condition for allowance as set forth above. Applicants however reserve the right to address such rejections of the dependent claims should such be necessary.

New Claims

New claims 11-16 have been added to recite the claimed invention in an alternative manner.

In particular, each of added claims 11-13 depends from claim 1 as amended. New claims 11-13 are accordingly believed to be allowable for at least the similar reasons as for claim 1.

One of the elements of added independent claim 14 recites "a concave reflection mirror, disposed between said diffraction grating and said first detecting means for providing a substantial conjugate relation between said diffraction grating and said first detecting means." Moreover, added independent claim 14 further recites that the incident light comprises a plurality of different wavelengths. Applicants believe that none of the cited references (i.e., Saitoh, Niu, Ohmi and Holler), either taken alone or in combination, shows or suggests this aspect of invention as in claim 14. Each of claims 15 and 16 depends from claim 14. New claims 14-16 are accordingly believed to be allowable over the cited references.

Applicants believe that the application including the added claims is in condition for allowance and such action is respectfully requested.

AUTHORIZATION

No petitions or additional fees are believed due for this amendment and/or any accompanying submissions. However, to the extent that any additional fees and/or petition is required, including a petition for extension of time, Applicants hereby petition the Commissioner to grant such petition, and hereby authorizes the Commissioner to charge any additional fees, including any fees which may be required for such petition, or credit any overpayment to Deposit Account No. 13-4500 (Order No. 1232-5081). A DUPLICATE COPY OF THIS SHEET IS ENCLOSED.

An early and favorable examination on the merits is respectfully requested.

Respectfully submitted,
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Amendments to the Drawings:

The attached sheet of drawings includes changes to Fig. 2. This sheet replaces the original sheet including Figs. 1 and 2. In Figure 2, reference character "1" has been amended to read --7--.

Attachment: Replacement Sheet